

66-1411  
DD/S 63-2102*Handwritten:*  
[illegible]*Washington, Virginia and Maryland Coach Co. Inc.*Wednesday  
May 15  
1963

STATINTL

Central Intelligence Agency  
Washington 25, D. C.

STATINTL

Dear 

The Washington, Virginia and Maryland Coach Company, Inc., hereinafter referred to as W. V. & M., operates a bus passenger service between the City of Washington, D. C. and the CIA Building, Langley, Virginia, via the George Washington Memorial Parkway between Key Bridge and the CIA Building. That in order that it may lawfully render the said service it had to secure authority from the Interstate Commerce Commission, Washington Metropolitan Area Transit Commission, and the State Corporation Commission of the Commonwealth of Virginia. The necessary authority referred to was secured from all of the said agencies.

That in addition to the foregoing, the law provides that W. V. & M. must also comply with the regulations of the Park Service, Department of the Interior. W. V. & M. was advised by the Park Service that its regulations had been amended and in furtherance thereof, it was, therefore, amending its permit issued to the W. V. & M. to provide that the W. V. & M. could only render direct service via the Parkway to the CIA Building, Langley, Virginia and return. The intent of the said regulation and permit was to curtail W. V. & M. rendering an express bus passenger service to its patrons residing along and/or about Virginia Route 123, via the CIA Building. W. V. & M. has continued to render the said service, believing the Park Service's position contrary to law.

That, as of last week, the Secretary of the Interior caused a complaint for Injunction and Declaratory Relief to be filed by the United States of America against W. V. & M., a copy of which complaint is attached hereto, bearing Civil Action No. 1172-63.

May 15, 1963

This litigation and the problems involved are of extreme importance to W. V. & M. and, in our belief, to the CIA. The present bus passenger service rendered to the CIA from the District of Columbia via Key Bridge and the Parkway depends for its monetary support in a large measure on the revenues received by W. V. & M. from its patrons who reside along Virginia Route 123. These patrons use this express bus passenger service, as it is the only express service available to them.

If W. V. & M. is ordered to refrain from serving its patrons by express bus passenger service via the Parkway, it will be caused to either discontinue a portion of its bus passenger service to the CIA, increase its fares to the CIA Building, or perhaps both.

I can assure you that W. V. & M. has no desire to disturb the pattern that has been in existence since September, 1961. That, up to the present time it has not operated the said service on a profitable basis, but has been able to increase its patronage, due to the growth of the communities to which I have referred in this letter. The continued growth of these areas and the use of the service by the employees at the CIA Building have just about made this particular operation a "pay for itself" operation.

Presently, our Counsel, Manuel J. Davis, is considering the filing of a motion for a change of venue, to have the case transferred to the United States Federal Court in Alexandria, Virginia. Whether successful or not with this motion, W. V. & M. intends to have the issues in this case determined by a court of law or by agreement through the parties in interest, if possible.

I am submitting this letter and a copy of the complaint to you, trusting that you will give this matter your immediate attention. W. V. & M. would appreciate hearing from you with respect to this matter and having you join it in this litigation if you are of the belief that the service, as rendered, is necessary to the employees of the CIA who use the said service and who, we believe, would be without a major portion of the express bus passenger service if the said rush hour service was caused to be curtailed or discontinued in part.

Very truly yours,

*S. A. DeStefano*  
S. A. DeSTEFANO  
President  
Arnold Lines

SAD:TSW

DD/S 63-3087

W7  
Bldg. 4 403-1  
(Highway)

17 JUL 1968

MEMORANDUM FOR THE RECORD

SUBJECT: United States v. Arnold Bus Lines, District Court for  
D. C., Civil Action No. 1172-63

1. Miss Mary A. McColligan of the office of the Solicitor of the Department of the Interior advised that the motion made today by the Department of Justice to have the case transferred to the District Court in Alexandria, Virginia, was denied.

2. By reference from Frank DeRosa of the Office of General Counsel, Mr. Judah Best, Assistant United States Attorney (code 1204, extension 350), confirmed the foregoing and also stated that Manuel J. Davis, attorney for the Arnold Bus Lines, had indicated he might subpoena CIA officials in support of the defense of his case. Mr. Best feels the case may be decided on motion for summary judgment (in favor of the Government) in which case it will probably be reached on the docket in 4 or 5 months. If the case actually goes to trial, it will probably take 18 months to come up. If the case is decided on motion, there is less likelihood of any of our people being subpoenaed, although there is a possibility that depositions may be sought. In any event, we can only play it by ear. Mr. Best will keep me advised.

STATINT

Assistant General Counsel/OL

✓ DD/S subject

OL 3 4687

DP/5 63-1597

Bldg 6 3.1  
(Transportation)

17 APR 1963

MEMORANDUM FOR THE RECORD

SUBJECT: Discontinued Temporary Trial Bus Service

1. On 11 April 1963, the undersigned went to the W. V. & M. Coach Co. to discuss the continuation of the rush hour bus that operates between the Pentagon and Headquarters building. I informed their Traffic Manager, Mr. Stokely, that D. C. Transit operates rush hour buses from Friendship Heights to Headquarters and carry an average of 6 passengers per bus. Mr. Stokely replied that D. C. Transit would insist on operating that line so they could be established in W. V. & M. territory and ultimately obtain permission to operate a bus line from the District to Dulles Airport.

2. Mr. Stokely then showed me passenger count records which showed 0 to 3 passengers boarding the bus at the Pentagon, 0 to 3 passengers boarding at Arlington Towers, and 8 to 12 passengers transferring at Rosslyn Circle. The passengers transferring at Rosslyn Circle can ride a bus in the opposite direction and transfer at Glebe Road to the Shirlington bus that goes to Headquarters. Therefore, discontinuing this bus service would handicap no more than 6 passengers.

3. At this point, Mr. Mills of the Metropolitan Transit Authority arrived and stated that the number of bus passengers did not justify continued bus service.

4. I requested that the W. V. & M. bus drivers notify all passengers on the Thursday evening and Friday runs that the bus service would cease as of Friday evening. Mr. Stokely stated that he would have slips printed with this information for the bus drivers to hand out.

STATINT

Chief, Passenger Vehicle Branch/16D

Distribution:

Orig. - LSD H/R File

1 - C/PVB/LSD

1 - D/CL

✓ 1 - E-A/DD/S

OL 3 2357

TATINTL

INDUSTRY  
Bldg # 3-1  
(Highway?)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

WASHINGTON, VIRGINIA &  
MARYLAND COACH COMPANY, INC. )  
a Corporation. )  
707 North Randolph Street )  
Arlington, Virginia )

Plaintiff, )

v. )

Civil Action No. \_\_\_\_\_

1. STEWART UDALL )  
SECRETARY OF THE INTERIOR )  
United States Department )  
of the Interior Building )  
Between 18th and 19th on )  
C Street, N. W. )  
Washington, D. C. )

2. CONRAD L. WIRTH )  
DIRECTOR, NATIONAL PARK )  
SERVICE )  
United States Department of )  
of the Interior Building )  
Between 18th and 19th on )  
C Street, N. W. )  
Washington, D. C. )

3. WASHINGTON METROPOLITAN )  
AREA TRANSIT COMMISSION )  
1801 North Moore Street )  
Arlington, Virginia )

4. STATE CORPORATION )  
COMMISSION )  
COMMONWEALTH OF VIRGINIA )  
Blanton Building )  
Richmond, Virginia )

COMPLAINT FOR A  
DECLARATORY JUDGMENT AND/OR A PERMANENT INJUNCTION

I.

This is a civil suit instituted by the Washington, Virginia and Maryland Coach Company, Inc., a corporation, over which this Court has jurisdiction pursuant to the provisions of 28 U. S. C. Section 2201 and 2202, Rule 57, Federal Rules of Civil Procedure, as amended December 29, 1948, effective October 20, 1949, Title 28 U. S. C. Section 1361, Public Law 87-748, October 5, 1962 and Section 10, Administrative Procedure Act, approved June 11, 1946.

II.

The plaintiff, the Washington, Virginia and Maryland Coach Company, Inc., is a corporation organized under the laws of the Commonwealth of Virginia and, pursuant to certificates of Public Convenience and Necessity issued to it by the Interstate Commerce Commission, the Washington Metropolitan Area Transit Commission and the State Corporation Commission of the Commonwealth of Virginia, is engaged in the transportation of passengers in interstate commerce from points and places in northern Virginia to the City of Washington, District of Columbia, and return, and in intrastate commerce between points and places in northern Virginia.

III.

That by Act of Congress on August 25, 1916, c. 408, Sec. 1, 39, Stat. 535, and amendments thereto, the Congress of the United States created in the Department of the Interior a service to be called

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the National Park Service and designated that the said service shall be under the charge of a director who shall be appointed by the Secretary of the Interior. Further, the said statute set forth the following stated purpose for which the said service was created:

"The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of War, as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Defendant, Stewart Udall was, on and subsequent to November 2), 1963 the duly appointed and acting Secretary of the Interior of the government of the United States; and defendant Conrad L. Wirth was, by and prior to November 2), 1963, the duly appointed and acting director, Department of Interior of the government of the United States, and they maintain their official offices and addresses at the Department of the Interior, Washington, D.C., and are sued in their official capacities as officers of the Government of the United States of America. Hereinafter, defendant Stewart Udall will be referred to as the "Secretary". The Director of the National Park Service will be referred to as the "Director".

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**IV.**

**Defendant, Washington Metropolitan Area Transit Commission, hereinafter referred to as "WMATC", has its Post Office address at 1801 North Moore Street, Arlington, Virginia, and was created by Public Law 86-774, 86th Congress, H.J. Res. 402, September 15, 1960, the Consent Legislation thereto, the acts of the Legislatures of the Commonwealth of Virginia and the State of Maryland and the Board of Commissioners of the District of Columbia, December 22, 1960. The said legislation stated that the Commission**

**" . . . shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia and the State of Maryland, and shall have the powers and duties set forth in this compact and such additional powers and duties as may be conferred upon it by subsequent action of the signatories. The Commission shall have jurisdiction co-extensive with the Metropolitan District for the regulation and improvement of transit and the alleviation of traffic congestion within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth herein. "**

**V.**

**Defendant, State Corporation Commission of the Commonwealth of Virginia, hereinafter called the "Corporation Commission" is an agency of the state government within the Commonwealth of Virginia, and is charged under the state laws with the control, supervisions and regulation of motor carrier vehicles. The said Commission's Post Office address is Richmond, Virginia.**



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VI.

The WMATC and the Corporation Commission are joined as parties defendant in this suit in view of the fact that each of the said regulatory agencies have jurisdiction over the plaintiff's interstate and intra-Virginia operations, respectively, under existing law.

VII.

That on December 22, 1960, the District of Columbia, the State of Maryland, and the Commonwealth of Virginia, pursuant to the joint resolution approved September 15, 1960 (Public Law No. 86-794, 74 Stat. 1031), and to the resolutions adopted by each of the said governmental jurisdictions, by the Board of Commissioners of the District of Columbia, and of the respective states, executed and placed into effect and law, the Washington Metropolitan Area Transit Regulation Compact, hereafter referred to as the Compact.

VIII.

That pursuant to Title I, Article XII, Sec. 4(a) of the said Compact, the plaintiff has been and is operating irregular and regular route, common carrier bus passenger service over the routes and in the areas prescribed in the certificates and permits issued to it by each of the respective Commissions, under whose jurisdiction it is authorized to render the said service.

IX.

That on and prior to March 22, 1961, the effective date of the Compact, the plaintiff was and has been authorized by the Interstate

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Commerce Commission, ("ICC"), the WMATC and the Corporation Commission to engage in and operate regular and irregular route common carrier bus passenger service, in interstate and intrastate commerce, respectively, between the junction of highway U. S. 50 and the George Washington Memorial Parkway, ("Parkway"), Arlington, Virginia and points and places in Arlington and Fairfax Counties, Virginia, and the City of Falls Church and Vienna, via the Parkway and the Central Intelligence Agency Building, Langley, Virginia ("CIA"), serving all intermediate points. That the said irregular and regular route, common carrier bus passenger authority, referred to herein, authorizes service along the said portion of the Parkway, to be performed by the plaintiff without making any bus passenger stops between the said intersection of U. S. highway 50 and the Parkway and the CIA via the Parkway.

X.

That while the plaintiff's application dated January 14, 1959, Docket No. 68167 (Sub. 33) was pending before the ICC for authority to operate its regular route, common carrier bus passenger service over the routes referred to in paragraph IX herein, plaintiff made application by letter dated March 2, 1959, to the Secretary and the Director for a permit to operate its buses in interstate and intrastate service over U. S. highway 50, via the Parkway to the CIA and over U. S. highways 29 and 211, via Spout Run Parkway and the Parkway, and was advised within a week thereof, by telephone, that the said request was being processed and

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that the permit requested would be issued within approximately two weeks from date thereof.

XI.

That, as of the same time, the Director was advised by the plaintiff of the pending application before the ICC, and the plaintiff was advised that there would be no objection to the pending application and that there was the possibility that the Director may be willing to send a representative to the said hearing for the purpose of supporting the application.

XII.

The County of Arlington, Virginia, through its duly authorized representatives intervened in support of the said application pending before the ICC.

XIII.

The plaintiff, as of the time that it filed the said application with the ICC to extend its existing authority to the CIA, held authority from the ICC and the Corporation Commission to operate as a motor common carrier of passengers, over Canal Road in the District of Columbia to Chain Bridge, thence over Chain Bridge over Virginia highway 123, and thence over the latter highway to Arlington and Fairfax Counties. This highway passes at one point within a mile of the site of the CIA. The plaintiff proposed to use the Parkway in its operations in order that it may facilitate the movement of passengers by express buses to and from the

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District of Columbia and nearby Virginia via the CIA. The Spout Run route, over which the plaintiff was granted authority from the ICC and the Corporation Commission to operate its buses, would be used as an alternate route in its present operations over Lee Highway (U. S. highways 2) and 211) for express traffic to and from governmental agencies located at points in Virginia and the District of Columbia. That the said express bus passenger service to the CIA would serve the public needs and demands from any and all places within the plaintiff's operation to the CIA and return. This would include serving that portion of the public using common carrier, regular route bus passenger service from points and places in the Commonwealth of Virginia, residing in communities in and about Virginia highway 123, as well as that portion of the public residing in the District of Columbia and the State of Maryland, who use the said service as their only means of public conveyance. In this connection, the plaintiff is authorized to use the Key, Memorial and Fourteenth Street Bridges over the Potomac River, to and from the District of Columbia, and it would divert buses from Lee Highway over Spout Run to its connection with the Parkway at a point immediately north of Key Bridge, and thence over the Parkway to the District of Columbia, via one of these bridges.

#### XIV.

The urgent public need for the said services being operated via the Parkway to the CIA and return was testified to by a witness representing

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the Arlington County Board at a public hearing held by the ICC on March 17, 1959.

## XV.

That on December 9, 1959, after having weighed evidence placed in record by the plaintiff and the Secretary, the joint board and an examiner of the ICC issued a report and order on further hearing, finding therein, on page 7 thereof:

"That the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, (1) between the junction U.S. Highway 50 and George Washington Memorial Parkway, and Central Intelligence Agency site, Langley, Fairfax County, Va., as follows: From junction U.S. Highway 50 and George Washington Memorial Parkway to junction Central Intelligence Agency access roads, and thence over access roads to the Central Intelligence Agency site, and return over the same route, serving no intermediate points, and (2) between junction George Washington Memorial Parkway and Spout Run Parkway and junction Spout Run Parkway and U.S. Highways 29 and 211, as follows: From junction George Washington Memorial Parkway and Spout Run Parkway, over Spout Run Parkway, to junction U.S. Highways 29 and 211, and return over the same route, serving no intermediate points, subject to compliance by applicant with any rules, regulations, or requirements which may be by law maintained or adopted by the Secretary of the Interior in connection with his administrative jurisdiction over matters relating to national parks that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the rules and regulations of the Commission thereunder; and that a certificate authorizing such operation should be granted."  
(Underlining supplied.)

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XVI.

Plaintiff, by tacking the said authority referred to in paragraph X hereof to its authority previously issued to it by the respective Commissions was and would be able to complete through and continuous trips throughout its entire system of operations to and from the points of origin in the Commonwealth of Virginia, heretofore explained, to points and places in the District of Columbia and return.

XVII.

The Secretary did not file any objections to the report and order referred to in paragraph X herein on further hearings and as of January 8, 1960, the ICC notified by letter all parties in interest that the said report and order on further hearing became the order of the Commission as of the date of said notice.

XVIII.

That immediately thereafter, the plaintiff contacted the Office of the Superintendent of the National Park Service, advising him of the decision by the ICC in the said proceeding and renewed the defendant's request for the issuance of the permit. The plaintiff for the first time was advised that in order to secure the said permit it would have to comply with a new set of rules and regulations adopted by the Secretary and which could be found on Page 11019 of the Federal Register dated December 30, 1959.

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**XIX.**

That the said telephone conference was confirmed by letter dated January 28, 1959, over the signature of the Superintendent of the National Park Service.

**XX.**

That the Director and Secretary both had knowledge of the plaintiff's application for a permit throughout the entire year 1959 and at no time, either prior to, during the time that it was considering the proposed rules and regulations or thereafter, did it notify the plaintiff that the said rules and regulations were under consideration or placed into effect.

**XXI.**

That the rules and regulations as set out in the Federal Register, supra, made no provision for the plaintiff to make application for certain of the routes for which it requested a permit and over which it secured authority to operate from the ICC. That in addition thereto, the said rules and regulations provided for a fee to be paid by the plaintiff for each bus seat operated through the area through which it sought to operate even though a portion of the said authority requested in the permit was not provided for under the present rules and regulations. That it was the duty and responsibility of the Director to inform the plaintiff of the fact that the said rules and regulations were under consideration, and further that it had been published in the Federal Register in order that the defendant have

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an opportunity to note its objections to the then proposed rules and regulations. The plaintiff had no reason to view the Daily Federal Register for the purpose of determining the daily transactions and undertakings of the defendants, Secretary and Director, as the jurisdiction of the plaintiff's interstate operations rested with the ICC. That had the Director either directly or indirectly so informed the plaintiff, it would have filed objections to the rules and regulations prior to their going into effect and would have requested the right to be heard in accordance with the Federal Administrative Procedure Act.

## XXII.

That in view of the fact that the plaintiff had no actual knowledge or notice of the publication of the proposed rules and regulations, it requested the Secretary to grant it a hearing on its objections thereto and/or to amend the said rules and regulations by inserting a new paragraph at the end of No. 11 of the insertion of the new numbered paragraph in Section 3.36 -- Commercial Vehicles and Common Carriers of the said rules and regulations as set out in Part II of the Federal Register dated December 30, 1959, Volume 24, No. 253, to read as follows:

Direct non-stop service between U.S. Highway 29 and 211, over Spout Run to intersection with George Washington Memorial Parkway.

Direct non-stop service between U.S. Highway 50, via the George Washington Memorial Parkway to Key Bridge and the CIA Building at Langley, Virginia.

Further, strike Paragraphs (3) and (4) thereof.



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XXIII.

A petition requesting a rule by the plaintiff, was filed on February 15, 1960 with the defendant, Secretary, in compliance with the Federal Administrative Procedure Act and the said department's existing regulation. That as a result of the said request the Secretary granted the plaintiff a hearing on or about February 29, 1960 before an examiner that it designated by the name of Robert McThillimey. That at the said hearing oral testimony and exhibits were placed in evidence by all parties in interest.

XXIV.

That at no time thereafter to the knowledge or notice to the plaintiff did the said examiner or any other person designated by the Secretary ever issue any findings of fact, recommendations or proposed orders. That even though the plaintiff requested the same from the defendant Secretary and/or his agents, none was ever made available to the plaintiff and, in fact the plaintiff on several occasions was advised that none had issued.

XXV.

That on or about November 16, 1962, when the plaintiff inquired from the Solicitors Office, Department of the Interior, about its pending application for a permit to operate over the said parkway to Dulles International Airport ("Dulles") it was informed that regulations had been

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promulgated by the Secretary on March 16, 1961, published once and withdrawn. Further, that at the present time, other regulations were being considered by the Director.

#### XXVI.

Plaintiff endeavored on a number of occasions to meet with the Director, and/or his agents with respect to its parkway operations to Dulles but was denied the right on each occasion. Thereafter, through the Office of the Solicitor, Department of Interior, such a meeting was arranged with Mr. T. Sutton Jett, National Park Service, Department of the Interior on November 16, 1962. That at this meeting, the plaintiff learned for the first time that new regulations were placed in effect as of that day, i. e. November 16, 1962 that the said regulations were not to be published and that a four-day permit had been issued to Airport Transport, Inc. and to the plaintiff to operate bus passenger service over the said Parkway although two days of operating rights under the plaintiff's permit had already expired. The said permit was issued to the plaintiff at 3:30 p. m. on the date of the said meeting, a date almost two full days after the said permit was issued, but never delivered to the plaintiff.

#### XXVII.

That the said regulations herein referred to, known as 36 CFR, part 3, made effective on November 16, 1962, a date prior to the publication thereof in the Federal Register on November 17, 1962, are invalid and of no effect in that the said regulations were not issued in compliance with the Administrative Procedures Act of the United States.

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**XXVIII.**

That between September 1, 1961, the date on which the plaintiff began its passenger bus operations over the Parkway, and November 16, 1962, the date on which the amended regulations herein referred to were placed in effect, the Director never informed, advised or stopped the plaintiff from operating the said services thereafter complained of, even though the plaintiff had openly and publicly operated the said services with full knowledge and/or implied consent of the Secretary and the Director. The said defendants are and should be estopped from denying the plaintiff the right or authority, if the Secretary ever had such authority, to operate the services herein complained of in intrastate and interstate commerce over the Parkway between Key Bridge and the CIA and between U.S. Highway 50 and Key Bridge.

**XXIX.**

That the regulations in question promulgated and placed into effect by the Secretary and/or his agent insofar as they relate to or provide for acts of commission or acts of omission by permittees under the said regulations, on CIA property under the control and jurisdiction of the CIA are null and void, invalid and of no legal effect.

**XXX.**

Regulations of the defendant, Secretary, herein contested, insofar as they restrict or endeavor to restrict the transportation of passengers by scheduled, regular route motor vehicles in and about Virginia route 123, adjacent to the CIA, via the CIA and the Parkway, are unlawful, invalid and of no legal force or effect.

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## XXXI.

That the action taken by the Secretary and/or the Director, in the promulgation and enforcement of the regulations herein as of November 16, 1962, is arbitrary and capricious in that defendants knew, as of the time they promulgated said regulations, that the Parkway over which it authorized the Airport Transport, Inc. to operate its buses to and from the District of Columbia and Dulles was safe for bus passenger traffic when, in fact, it caused its employees to testify before the ICC on September 28, 1959 that portions of the said road and road bed were unsafe for bus passenger traffic and on the said basis requested the ICC to deny the plaintiff a certificate of public convenience and necessity.

## XXXII.

That the Secretary, on November 16, 1962 promulgated and placed in effect the regulations herein complained of. The Secretary promulgated Section 3.36 (b), numbers 2 and 3 thereunder, and provided therein for the said Parkway being used by passenger carrying vehicles of no more than fourteen (14) passengers, excluding the driver, when engaged in services authorized by concession agreement, to be operated from the Washington National Airport and/or Dulles, subject to the necessity of securing a permit and the payment of fees. Further, that in paragraph (3) therein, the regulations provide that passenger vehicles for hire or compensation may be permitted on the said Parkway upon application for a permit under (a) (b) of the said paragraph (3) of the said

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section. That in paragraph (b) thereof, the regulation provides for operating non-scheduled, direct, non-stop service, primarily for the accommodation of air travelers arriving at or leaving from Dulles . . . . over the Parkway between Virginia route 123 and Key Bridge . . . . ; and (iii) between Dulles and Washington National Airport over the Parkway between Virginia route 123 and the Washington National Airport. That the language set out in paragraph (b), supra, was so written as to authorize Airport Transport, Inc., which operates a non-scheduled, direct, non-stop service, primarily for the accommodation of air travelers arriving at or departing from Dulles. The language set out in the regulation as written and referred to hereinabove was drafted in the manner referred to in order to enable the said company and no other from complying with the wording in the said regulation. That under the said purported regulation, upon information and belief, the plaintiff alleges that the Airport Transport, Inc. did apply for and receive a permit from the Secretary and/or his agent to perform the said service and is continually performing the said service. Plaintiff operates a scheduled, direct bus passenger service for the public over fixed routes as approved by the Commissions who control its movements and operations. That the language of the said regulation is intended to prohibit the public other than airline passengers using Dulles and Washington National Airport from using the said Parkway by regular route, scheduled, common carrier service in traveling to and from their homes and/or places of employment in and about Virginia

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route 123 via the said parkway to the District of Columbia and points and places in Virginia. That the regulation as drafted and applied in operation is a direct prohibition against the public and their use of a public facility, is an abusive, arbitrary and capricious act on the part of the Secretary and/or his agent.

**XXXIII.**

That the amended regulation to Section 3.36 of Title 36, Code of Federal Regulations, as amended, on December 30, 1959, March 16, 1961 and November 16, 1962, respectively, and prior thereto, restricting the free movement of vehicles operated by certificated regular route common carriers of passengers in interstate commerce over the Parkway between Key Bridge and the CIA and between U.S. Highway 50 and Key Bridge and Spout Run is an undue burden on Interstate Commerce and contrary to law.

**XXXIV.**

That the regulations herein complained of and alleged by the plaintiff to be invalid, are abusive, capricious and arbitrary in that the purpose for which each of the said regulations was promulgated, endeavors and does cover subject matter not placed under its jurisdiction in the National Park Service Act of Congress c. 408, Sec. 1, 39 Stat. 535 and amendments thereto, dated August 25, 1961.

**XXXV.**

That the regulations promulgated by the Secretary and herein alleged to be abusive, capricious, arbitrary and invalid are contrary to

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a law providing for the preparation and detailed plans and specifications and the construction of a CIA headquarters installation and for other purposes as authorized by Title IV of the Act of July 15, 1955 (Public Law 161 (6) Stat. 349) in that it was the intent of the said legislation that public transportation be supplied by the bus line serving the general area, as may be determined by the Corporation Commission.

## XXXVI.

That on December 6, 1962, 468 days after the plaintiff was issued a permit, on August 23, 1961, by the Director, to operate its bus passenger service via the said parkway, it was advised that its operations over the said parkway were unlawful. That a letter herein referred to, dated December 6, 1962, was the first notice ever received by the plaintiff from the said Director that the said operations being conducted by the plaintiff over the parkway were not within the authority granted to the plaintiff by the said Director under the terms set out in the said permit.

## XXXVII.

That Section 3.36(b)(3)(c) of the Code of Federal Regulations, Title 36, Parks, Forests and Memorials, Chapter I, National Park Service, Department of the Interior, Part 3, National Capital Region Regulations, provides for the collection of fees from permittees operating on the said portions of the Parkway referred to herein. That the said fees so promulgated are an undue burden on interstate commerce and the public using the regular route, common carrier bus passenger service over the

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said interstate highway. That in view thereof, the public and the plaintiff have been unduly burdened by the said unlawful regulation, imposing fees and charges on them over and above fees heretofore and presently being imposed upon the public and the plaintiff by the governments of the various jurisdictions for the use of the said highways.

XXXVIII.

The Consent Legislation approved September 15, 1960, provided that upon the effective date of the Compact and so long thereafter as the Compact remains effective, the applicability of the laws of the United States, and the rules, regulations and orders promulgated thereunder, relating to or affecting transportation under the Compact and to the persons engaged therein, is suspended except as otherwise specified in the Compact. An exception set out in the said Consent Legislation provided: "That nothing in this Act or in the Compact shall affect the normal and ordinary police powers of . . . . and of the Director with respect to the regulation of vehicles, control of traffic and use of streets, highways and other vehicular facilities."

That the regulations, rules and orders promulgated and placed in effect by the Secretary and the Director on December 30, 1959, March 15, 1961, and November 16, 1962, under authority vested in the Secretary, by Section 3 of the Act of August 25, 1916 (39 Stat. 535, 16 U.S.C. 3, amending 36 C.F.R. 3.36 (b)), were and are a burden on interstate commerce, contrary to law, invalid, abusive, arbitrary and



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capricious acts, and in violation of the Compact and Consent Legislation thereto, in that the Director was directed under the said rules and regulations to prohibit the plaintiff from transporting intrastate and interstate passengers destined to and from points and places adjacent to the CIA to the District of Columbia and return on approved regular route, common carrier bus passenger service over public highways and a portion of the CIA grounds and property under the jurisdiction of the CIA and not the Secretary or the Director on the Parkway between U. S. highway 50 and the CIA.

**XXXIX.**

The said regulations adopted by the Secretary are capricious and arbitrary in that they deny the public and the plaintiff from using the public facility, known as the Parkway, which highway should be open to any citizen.

**XL.**

The said regulations adopted by the Secretary are capricious and arbitrary in that they expose the public, plaintiff and its employees to excessive and unreasonable inconvenience and delay.

**XLI.**

The said regulations adopted by the Secretary are capricious and arbitrary in that they subject the public and the plaintiff to unreasonable restrictions in the transportation of the public in regular route, common carrier bus transportation vehicles, to and from areas adjacent to the CIA property.

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**XLII.**

The said regulations adopted by the Secretary are capricious and arbitrary in that if the plaintiff is caused to discontinue the rendering of the said services via the parkway to the residents of the Commonwealth of Virginia, residing in and about Virginia highway 123, via the said Parkway and the CIA, then and in that event the defendant would be caused to change and/or alter the said services as follows.

1. If caused to directly return from the CIA without being able to serve the residents of the Commonwealth of Virginia residing in the immediate area by means of the same vehicle transporting the passengers to the CIA, the fares per one way trip from the District of Columbia to the CIA, and return, would have to be materially increased to each passenger as well as discontinuing the service in part.
2. The residents of the Commonwealth of Virginia residing in and about Virginia route 123 would be denied the use of direct express bus passenger service to the District of Columbia, via the Parkway
3. That the bus passenger service to and from the area referred to in 2 herein above would have to be decreased in part.

**XLIII.**

That the said regulations adopted by the Secretary are invalid and illegal, in that the said regulations provide, grant and authorize the Director to perform acts and services which exceed and are beyond the

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**XLII.**

The said regulations adopted by the Secretary are capricious and arbitrary in that if the plaintiff is caused to discontinue the rendering of the said services via the parkway to the residents of the Commonwealth of Virginia, residing in and about Virginia highway 123, via the said Parkway and the CIA, then and in that event, the defendant would be caused to change and/or alter the said services as follows:

1. If caused to directly return from the CIA without being able to serve the residents of the Commonwealth of Virginia residing in the immediate area by means of the same vehicle transporting the passengers to the CIA, the fares per one way trip from the District of Columbia to the CIA, and return, would have to be materially increased to each passenger as well as discontinuing the service in part.
2. The residents of the Commonwealth of Virginia residing in and about Virginia route 123 would be denied the use of direct express bus passenger service to the District of Columbia, via the Parkway
3. That the bus passenger service to and from the areas referred to in 2 herein above would have to be decreased in part.

**XLIII.**

That the said regulations adopted by the Secretary are invalid and illegal, in that the said regulations provide, grant and authorize the Director to perform acts and services which exceed and are beyond the

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**legal, normal and ordinary police powers of the Director, as provided for in the Compact and the consent Legislation thereto.**

**XLI.**

The said National Capital Park Regulations adopted by the Secretary, as they pertain to the use of the Parkway, between the junction of U. S. highway 50 and Arlington Boulevard and the CIA and the levying of fees against scheduled regular route, common carrier bus operators for the use of the same, exceed and are beyond the legal, normal and ordinary police powers of the Director, as provided for in the Compact and consent Legislation thereto. Said Director acting pursuant to the said unauthorized, unlawful and invalid authority, did deny the plaintiff a permit to operate over the said portion of the parkway by letter dated December 12, 1962, wherein he notified the plaintiff that he was denying it the permit requested to operate its scheduled regular route bus passenger service to Dulles via the Parkway and the CIA, from the District of Columbia, serving all intermediate points, and return. Further the said Director by letter dated November 16, 1962, placed the plaintiff on notice that it was amending the said regulations, attached a copy thereto, as amended, the effect of which was to place the plaintiff on notice that its existing permit to operate over the said portion of the Parkway was further restricted.

Said regulations and prohibitions against the plaintiff's use of the said public highway, the Parkway, are invalid in that they exceed and are beyond the legal, normal and ordinary police powers of the Director, as provided for in the Compact and the consent Legislation thereto.

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**XLV.**

That since the date that the plaintiff was informed that it was rendering the said bus passenger service in violation of its National Park Service permit, it has on a number of occasions met or endeavored to meet with the officials of the WMATC and the office of the Director and on each occasion plaintiff was advised that each of the said agencies claimed regulatory jurisdiction over the said interstate operations. Further, that the Corporation Commission claimed regulatory jurisdiction of the plaintiff's intrastate operations over the said portions of the Parkway.

That under Title II, Article XII, (3) of the Compact, it is the duty of the plaintiff to furnish transportation subject to this Act as authorized by its certificate . . . . to provide safe and adequate service . . . . In connection with such transportation . . . .

That under (g) of the said Title and Article, the WMATC may revoke plaintiff's certificate for noncompliance. In addition thereto, the plaintiff is subject to Article XII, Sec. 18 (d) of the Compact which states:

"Any person knowingly or wilfully violating any provisions of this statute, or any rule, regulation, requirement, or order thereto, or any term or condition of any certificate shall, upon conviction thereof, be fined not more than \$100 for the first offense and not more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense."

That under the Code of Virginia, 1919, Sec. 3925, the defendant, the Corporation Commission may revoke, fine or suspend plaintiff's intrastate certificate for noncompliance.

The National Park Service Regulations promulgated and placed into effect on December 30, 1959, March 16, 1961 and November 16, 1962, are in the belief of the plaintiff to be arbitrary and capricious and beyond the authority of the Secretary and/or the Director and are a burden on and a restriction of interstate commerce.

Plaintiff has invested large sums of money in this operation, having purchased 10 new GMC buses at a cost of \$320,000.00 to supplement its fleet. That it has conducted the said operation via the Parkway at a financial loss over a period of 1 1/2 years. That presently the said operation is being conducted on a break-even basis.

There are in excess of 1,000 riders per day who use the said service and who are dependent upon the operation of the said service as their sole means of traveling to and from their homes and places of employment.

That as a result of the facts and law herein referred to, the plaintiff, the transit company, shall and will be subject to having its certificates issued to it by the WMATC and the Corporation Commission suspended, revoked or fined if it complies with the request and demand of the Secretary and the Director.

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**WHEREFORE, plaintiff prays:**

1. That this Court enter a declaratory judgment declaring that so long as the Compact provided for in Public Law 86-774, enacted September 14, 1960 by the United States Congress, remains effective, the rules, regulations and orders promulgated by the Secretary of the Interior of the United States and/or the Director, National Park Service, Department of the Interior, relating to or affecting transportation of certificated motor carriers of passengers under the Compact and the persons engaged therein in the Metropolitan District are suspended, inoperative, unenforceable, and in violation of said Compact.

2. That a declaratory judgment declaring that the plaintiff's bus passenger vehicles transporting passengers and their baggage and persons engaged therein on George Washington Memorial Parkway situated in the Metropolitan District may be operated on the said Parkway under its certificates issued by the Interstate Commerce Commission, Washington Metropolitan Area Transit Commission and State Corporation Commission of the Commonwealth of Virginia without interference from the Secretary of the Interior and/or the Director, National Park Service.

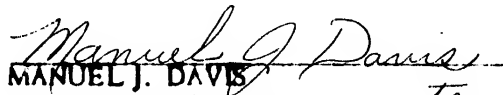
3. That a declaratory judgment declaring that the Secretary of the Interior and/or the Director, National Park Service, has normal and ordinary police powers with respect to the regulation of vehicles, control of traffic, use of highways and other vehicular facilities and that said normal and ordinary police powers do not authorize the Secretary of the Interior and/or the Director, National Park Service, to regulate the plaintiff's operations over the George Washington Memorial Parkway situated in the Metropolitan District.

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4. That a judgment be entered against the Secretary of the Interior and/or Director, National Park Service, restraining each of them from ordering, requesting or demanding that plaintiff receive any permit from said defendants purporting to grant plaintiff authority to operate its bus passenger vehicles on the George Washington Memorial Parkway situated in the Metropolitan District.

5. That a judgment be entered against the Secretary of the Interior and/or the Director, National Park Service, restraining and prohibiting each of them from charging and/or collecting any fees from the plaintiff for use of the George Washington Memorial Parkway situated in the Metropolitan District, it being contrary to law and an undue burden on interstate commerce.

6. For such other and appropriate relief as to the Court may seem fit and proper.

  
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